

CHAPTER 411

HEALTH AND ENVIRONMENT

HOUSE BILL 21-1266

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AN ACT

CONCERNING EFFORTS TO REDRESS THE EFFECTS OF ENVIRONMENTAL INJUSTICE ON DISPROPORTIONATELY IMPACTED COMMUNITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Environmental Justice Act".

SECTION 2. Legislative declaration. (1) The general assembly hereby:

(a) Finds that:

(I) All people have the right to breathe clean air, drink clean water, participate freely in decisions that affect their environments, live free of dangerous levels of toxic pollution, experience equal protection provided by environmental policies, and share the benefits of a prosperous and vibrant pollution-free economy;

(II) Certain communities, both in Colorado and internationally, have historically been forced to bear a disproportionate burden of adverse human health or environmental effects as documented in numerous studies, including the "Toxic Wastes and Race at Twenty, 1987-2007" report by the United Church of Christ Justice & Witness Ministries, federal environmental protection agency annual Environmental Justice Progress Reports, and a 2021 report from the "Mapping for Environmental Justice" project at the Berkeley Public Policy/The Goldman School that shows how the pollution burden is distributed in Colorado, while also facing

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

systemic exclusion from environmental decision-making processes and enjoying fewer environmental benefits;

(III) Specifically, communities with residents who are Black, Indigenous, Latino, or people of color have faced centuries of genocide, environmental racism, and predatory extraction practices; and

(IV) At the same time, environmental justice affects and requires the participation of all Coloradans;

(b) Determines that:

(I) Federal action to address environmental justice includes the federal environmental protection agency's office of environmental justice, originally established in 1992, and the assignment of EPA regional liaisons to minority, Tribal, and low-income communities pursuant to 42 U.S.C. sec. 4370i;

(II) States have also addressed environmental justice, with the National Law Review recently noting on October 30, 2020, that "the vast majority of states now address [environmental justice] in some fashion-via legislation, agency policy and guidance, or advisory groups-with fewer than five failing to mention the concept at all";

(III) Environmental justice laws that promote outreach to and facilitate feedback from disproportionately impacted communities and require that agencies consider that feedback have been upheld by the courts as a legitimate exercise of legislative authority, such as in *Friends of Buckingham v. State Air Pollution Control Bd.*, 947 F.3d 68 (4th Cir. 2020) (vacating the issuance of a permit due to the board's failure to properly consider the permit's environmental justice impacts);

(IV) State action to correct environmental injustice is imperative, and state policy can and should improve public health and the environment and improve the overall well-being of all communities;

(V) Efforts to right past wrongs and move toward environmental justice must focus on disproportionately impacted communities and the voices of their residents;

(VI) Less-burdened communities have benefitted from relationships that impose burdens on other communities, which is a tangible debt that must be repaid through financial reinvestment, and these relatively privileged communities have a responsibility to acknowledge the harms to which they contribute and a duty to find ways to give back what has been taken; and

(VII) Environmental justice is not a zero-sum game: The better we take care of all communities, the more we all grow, and by focusing on communities that are hurting the most, all communities will find opportunities to heal and thrive; and

(c) Declares that:

(I) The state government has a responsibility to achieve environmental justice, health equity, and climate justice for all communities by avoiding and mitigating

harm;

(II) It is necessary for disproportionately impacted communities to be meaningfully engaged as partners and stakeholders in government decision-making;

(III) Potential environmental and climate threats to communities merit a higher level of engagement, review, and consent; and

(IV) This act is necessary to ensure that communities are not forced to bear disproportionate environmental and health impacts.

(2) The general assembly also hereby:

(a) Finds that prompt action is essential for Colorado to meet its climate goals, given, among other things, the slow turnover of equipment, vehicles, appliances, and other technologies that burn or release fossil fuels. The general assembly further recognizes that climate change is a cumulative emissions problem. This is because long-lived climate pollutants can persist for centuries in the atmosphere, thus committing us to warming for generations to come. As we continue to emit greenhouse gases into the atmosphere over the next decade, and even over the next few years, we will continue to exacerbate the climate damages we are already seeing and increase the risk of catastrophic disruption. Therefore, early action to reduce the pollutants that contribute to climate change, thereby reducing overall atmospheric greenhouse gas concentrations, is essential. Colorado needs to secure reductions in pollution over time in amounts that align with the estimated carbon dioxide budgets identified by the United Nations' intergovernmental panel on climate change consistent with limiting the average global warming, in comparison to accepted historical average temperatures, to one and one-half degrees Celsius.

(b) Determines that:

(I) Due to historical systems and practices that intentionally targeted Black, Latino, Asian American, and Indigenous people, communities of color, and low-income communities, there continues to be a racial and socioeconomic inequity in regard to the impacts of climate change and pollution. As documented in multiple peer-reviewed scientific studies, communities with predominantly Black, Latino, Asian American, or Indigenous populations suffer from higher rates of air pollution and damage due to changing and more severe weather and have been systematically excluded from governance and decision-making. It is therefore the responsibility of the state to include and engage these communities more fully in policymaking at every level and to ensure that environmental policy works toward restorative justice and benefitting these communities. The general assembly recognizes that the key to addressing these historic wrongs is to rapidly reduce pollution in disproportionately impacted communities, including from electric power, industrial, and manufacturing sources.

(II) The public should have a meaningful opportunity to participate in rule-making proceedings before the air quality control commission. This requires that members of the public be provided with timely access to information needed to understand proposed rules and to develop alternative proposals;

(III) The commission is encouraged to use language that is understandable to citizens who do not have specialized knowledge of the matters before the commission; and

(c) Declares that:

(I) Nothing in this act:

(A) Alters the greenhouse gas emission reduction goals previously established in section 25-7-102 (2)(g), C.R.S., in either amount or timing; or

(B) Detracts from the commission's existing authority to require more than the minimum greenhouse gas emission reduction goals and deadlines previously established in section 25-7-102 (2)(g), C.R.S.; and

(II) This act adds to, but does not otherwise alter, the air quality control commission's authority and obligation to publish and promulgate rules pursuant to sections 25-7-105, 25-7-102 (2)(g), and 25-7-140.

SECTION 3. In Colorado Revised Statutes, **add** 24-4-109 as follows:

24-4-109. State engagement of disproportionately impacted communities - definitions - repeal. (1) **Goal.** THE GOAL OF OUTREACH TO AND ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES IS TO BUILD TRUST AND TRANSPARENCY, PROVIDE MEANINGFUL OPPORTUNITIES TO INFLUENCE PUBLIC POLICY, AND MODIFY PROPOSED STATE ACTION IN RESPONSE TO RECEIVED PUBLIC INPUT TO DECREASE ENVIRONMENTAL BURDENS OR INCREASE ENVIRONMENTAL BENEFITS FOR EACH DISPROPORTIONATELY IMPACTED COMMUNITY.

(2) **Definitions.** (a) (I) THE ENVIRONMENTAL JUSTICE ACTION TASK FORCE CREATED IN SECTION 25-1-133 WILL RECOMMEND TO THE GENERAL ASSEMBLY POTENTIAL MODIFICATIONS TO THE DEFINITIONS ESTABLISHED IN THIS SUBSECTION (2). THE DEFINITIONS ESTABLISHED IN THIS SUBSECTION (2) APPLY UNLESS AND UNTIL THE GENERAL ASSEMBLY ACTS BY BILL TO MODIFY ONE OR MORE OF THE DEFINITIONS.

(II) THIS SUBSECTION (2)(a) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

(b) AS USED IN THIS SECTION AND SECTIONS 25-1-133, 25-1-134, AND 25-7-105 (1)(e), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "AGENCY" MEANS THE AIR QUALITY CONTROL COMMISSION CREATED IN SECTION 25-7-104.

(II) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A COMMUNITY THAT IS IN A CENSUS BLOCK GROUP, AS DETERMINED IN ACCORDANCE WITH THE MOST RECENT UNITED STATES CENSUS, WHERE THE PROPORTION OF HOUSEHOLDS THAT ARE LOW INCOME IS GREATER THAN FORTY PERCENT, THE PROPORTION OF HOUSEHOLDS THAT IDENTIFY AS MINORITY IS GREATER THAN FORTY PERCENT, OR THE PROPORTION OF HOUSEHOLDS THAT ARE HOUSING COST-BURDENED IS GREATER THAN FORTY PERCENT; OR IS ANY OTHER COMMUNITY AS IDENTIFIED OR APPROVED

BY A STATE AGENCY, IF: THE COMMUNITY HAS A HISTORY OF ENVIRONMENTAL RACISM PERPETUATED THROUGH REDLINING, ANTI-INDIGENOUS, ANTI-IMMIGRANT, ANTI-HISPANIC, OR ANTI-BLACK LAWS; OR THE COMMUNITY IS ONE WHERE MULTIPLE FACTORS, INCLUDING SOCIOECONOMIC STRESSORS, DISPROPORTIONATE ENVIRONMENTAL BURDENS, VULNERABILITY TO ENVIRONMENTAL DEGRADATION, AND LACK OF PUBLIC PARTICIPATION, MAY ACT CUMULATIVELY TO AFFECT HEALTH AND THE ENVIRONMENT AND CONTRIBUTE TO PERSISTENT DISPARITIES. AS USED IN THIS SUBSECTION (2)(b)(II), "COST-BURDENED" MEANS A HOUSEHOLD THAT SPENDS MORE THAN THIRTY PERCENT OF ITS INCOME ON HOUSING, AND "LOW INCOME" MEANS THE MEDIAN HOUSEHOLD INCOME IS LESS THAN OR EQUAL TO TWO HUNDRED PERCENT OF THE FEDERAL POVERTY GUIDELINE.

(III) "PROPOSED STATE ACTION" MEANS:

(A) RULE-MAKING PROCEEDINGS HELD PURSUANT TO SECTION 24-4-103;

(B) LICENSING PROCEEDINGS, INCLUDING THE ISSUANCE AND RENEWAL OF PERMITS, HELD PURSUANT TO SECTION 24-4-104; AND

(C) ADJUDICATORY HEARINGS HELD PURSUANT TO SECTION 24-4-105.

(3) **Engagement.** (a) TO PROMOTE THE GOAL OF STATE ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES, AN AGENCY SHALL STRIVE TO CREATE NEW WAYS TO GATHER INPUT FROM COMMUNITIES ACROSS THE STATE, USING MULTIPLE LANGUAGES AND MULTIPLE FORMATS AND TRANSPARENTLY SHARING INFORMATION ABOUT ADVERSE ENVIRONMENTAL EFFECTS FROM ITS PROPOSED STATE ACTION.

(b) WHEN CONDUCTING OUTREACH TO AND ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES REGARDING A PROPOSED STATE ACTION, THE AGENCY SHALL:

(I) SCHEDULE VARIABLE TIMES OF DAY AND DAYS OF THE WEEK FOR OPPORTUNITIES FOR PUBLIC INPUT ON THE PROPOSED STATE ACTION, INCLUDING AT LEAST ONE WEEKEND TIME, ONE EVENING TIME, AND ONE MORNING TIME FOR PUBLIC INPUT;

(II) PROVIDE NOTICE AT LEAST THIRTY DAYS BEFORE ANY PUBLIC INPUT OPPORTUNITY OR BEFORE THE START OF ANY PUBLIC COMMENT PERIOD;

(III) UTILIZE SEVERAL DIFFERENT METHODS OF OUTREACH AND WAYS TO PUBLICIZE THE PROPOSED STATE ACTION, INCLUDING DISSEMINATING INFORMATION THROUGH SCHOOLS, CLINICS, SOCIAL MEDIA, SOCIAL AND ACTIVITY CLUBS, LOCAL GOVERNMENTS, TRIBAL GOVERNMENTS, LIBRARIES, RELIGIOUS ORGANIZATIONS, CIVIC ASSOCIATIONS, COMMUNITY-BASED ENVIRONMENTAL JUSTICE ORGANIZATIONS, OR OTHER LOCAL SERVICES;

(IV) PROVIDE SEVERAL METHODS FOR THE PUBLIC TO GIVE INPUT, SUCH AS IN-PERSON MEETINGS, VIRTUAL AND ONLINE MEETINGS, ONLINE COMMENT PORTALS OR E-MAIL, AND CALL-IN MEETINGS;

(V) CONSIDER USING A VARIETY OF LOCATIONS FOR PUBLIC INPUT ON THE PROPOSED STATE ACTION, INCLUDING MEETING LOCATIONS IN URBAN CENTERS, IN NEIGHBORHOODS WHOSE POPULATIONS ARE PREDOMINANTLY BLACK, INDIGENOUS, OR PEOPLE OF COLOR AND HAVE AN AVERAGE INCOME BELOW THE STATE'S AVERAGE, AND IN RURAL LOCATIONS IN VARIOUS REGIONS OF THE STATE; AND

(VI) CREATE OUTREACH MATERIALS CONCERNING THE PROPOSED STATE ACTION IN LAYPERSON'S TERMS, TRANSLATED INTO THE TOP TWO LANGUAGES SPOKEN IN A COMMUNITY, THAT INFORM PEOPLE OF OPPORTUNITIES TO PROVIDE INPUT ON THE PROPOSED STATE ACTION, THEIR RIGHTS, THE POSSIBLE OUTCOMES, AND THE UPCOMING PUBLIC INPUT PROCESS.

SECTION 4. In Colorado Revised Statutes, **add 25-1-133** as follows:

25-1-133. Environmental justice action task force - report - repeal.

(1) **Creation.** (a) THERE IS HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE ACTION TASK FORCE TO RECOMMEND AND PROMOTE STRATEGIES FOR INCORPORATING ENVIRONMENTAL JUSTICE AND EQUITY INTO HOW STATE AGENCIES DISCHARGE THEIR RESPONSIBILITIES.

(b) THE TASK FORCE CONSISTS OF TWENTY-SEVEN MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION.

(c) THE MEMBERSHIP OF THE TASK FORCE AND APPOINTING AUTHORITIES ARE AS FOLLOWS:

(I) THE GOVERNOR SHALL APPOINT THE FOLLOWING NINE MEMBERS:

(A) THREE REPRESENTATIVES FROM THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ONE WITH EXPERTISE IN AIR QUALITY, ONE WITH EXPERTISE IN WATER QUALITY, AND ONE WITH EXPERTISE IN HEALTH EQUITY;

(B) ONE REPRESENTATIVE OF THE DEPARTMENT OF NATURAL RESOURCES;

(C) ONE REPRESENTATIVE OF THE DEPARTMENT OF TRANSPORTATION;

(D) ONE REPRESENTATIVE OF THE COLORADO ENERGY OFFICE;

(E) ONE REPRESENTATIVE OF THE PUBLIC UTILITIES COMMISSION;

(F) ONE REPRESENTATIVE OF THE DEPARTMENT OF AGRICULTURE; AND

(G) ONE REPRESENTATIVE OF THE GOVERNOR'S OFFICE;

(II) TWO MEMBERS, ONE APPOINTED BY THE CHAIR OF THE SOUTHERN UTE INDIAN TRIBE TRIBAL COUNCIL AND ONE APPOINTED BY THE CHAIR OF THE UTE MOUNTAIN UTE TRIBE TRIBAL COUNCIL;

(III) SIXTEEN MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES,

WITH ONE MEMBER APPOINTED BY EACH APPOINTING AUTHORITY FROM SUBSECTION (1)(c)(III)(A) OF THIS SECTION AND THREE MEMBERS EACH FROM SUBSECTION (1)(c)(III)(B) OF THIS SECTION:

(A) FOUR MEMBERS WHO REPRESENT DISPROPORTIONATELY IMPACTED COMMUNITIES LOCATED, TO THE EXTENT PRACTICABLE, IN DIFFERENT CONGRESSIONAL DISTRICTS OF THE STATE; AND

(B) THE FOLLOWING NUMBER OF MEMBERS OF DIFFERENT ORGANIZATIONS THAT: CARRY OUT INITIATIVES RELATING TO ENVIRONMENTAL JUSTICE, THREE MEMBERS; REPRESENT WORKER INTERESTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES, ONE MEMBER; REPRESENT THE INTEREST OF PEOPLE OF COLOR, FOUR MEMBERS; REPRESENT THE RENEWABLE ENERGY INDUSTRY, ONE MEMBER; REPRESENT THE NONRENEWABLE ENERGY INDUSTRY, ONE MEMBER; REPRESENT LOCAL GOVERNMENT IN DISPROPORTIONATELY IMPACTED COMMUNITIES, ONE MEMBER; AND WORK TO SUPPORT PUBLIC HEALTH, ONE MEMBER, WHO MUST BE AN ENVIRONMENTAL TOXICOLOGIST.

(d) THE APPOINTING AUTHORITIES SHALL FILL A VACANCY AS SOON AS POSSIBLE. IN MAKING APPOINTMENTS TO THE TASK FORCE, THE APPOINTING AUTHORITIES SHALL ENSURE THAT THE MEMBERSHIP OF THE TASK FORCE REFLECTS THE RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE, INCLUDING REPRESENTATION OF ALL AREAS OF THE STATE.

(2) **Mission of the task force.** THE MISSION OF THE TASK FORCE IS TO PROPOSE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING PRACTICAL MEANS OF ADDRESSING ENVIRONMENTAL JUSTICE INEQUITIES BY:

(a) PROMOTING ENVIRONMENTAL JUSTICE ACROSS STATE AGENCIES AND IMPROVING COLLABORATION AMONG STATE AGENCIES IN IDENTIFYING AND ADDRESSING THE HUMAN HEALTH AND ENVIRONMENTAL EFFECTS OF PROGRAMS, POLICIES, PRACTICES, AND ACTIVITIES ON DISPROPORTIONATELY IMPACTED COMMUNITIES;

(b) IMPROVING COOPERATION ON ENVIRONMENTAL JUSTICE INITIATIVES BETWEEN THE STATE GOVERNMENT, TRIBAL GOVERNMENTS, AND LOCAL GOVERNMENTS;

(c) ENSURING MEANINGFUL INVOLVEMENT AND DUE PROCESS IN THE DEVELOPMENT, IMPLEMENTATION, AND ENFORCEMENT OF ENVIRONMENTAL LAWS AND POLICIES; AND

(d) ADDRESSING ENVIRONMENTAL HEALTH, POLLUTION, AND PUBLIC HEALTH BURDENS IN DISPROPORTIONATELY IMPACTED COMMUNITIES AND BUILDING HEALTHY, SUSTAINABLE, AND RESILIENT COMMUNITIES.

(3) **Duties of the task force.** THE TASK FORCE SHALL CONSIDER PROPOSING RECOMMENDATIONS CONCERNING THE FOLLOWING:

(a) DEVELOPING A STATE AGENCY-WIDE ENVIRONMENTAL JUSTICE STRATEGY AND A PLAN TO IMPLEMENT THAT STRATEGY, WHICH COULD INCLUDE:

(I) RECOMMENDATIONS FOR CREATING AND IMPLEMENTING EQUITY ANALYSIS INTO ALL SIGNIFICANT PLANNING, RULE-MAKING, ADJUDICATIONS, ORDERS, PROGRAMMATIC AND POLICY DECISION-MAKING, AND INVESTMENTS;

(II) A POTENTIAL REQUIREMENT THAT AGENCIES PREPARE AN ENVIRONMENTAL EQUITY ANALYSIS FOR ANY STATE ACTION THAT HAS THE POTENTIAL TO CAUSE NEGATIVE ENVIRONMENTAL OR PUBLIC HEALTH IMPACTS TO A DISPROPORTIONATELY IMPACTED COMMUNITY, WHICH ANALYSIS COULD INCLUDE A PROCESS FOR IDENTIFYING AND DESCRIBING CUMULATIVE IMPACTS TO THE HEALTH AND ENVIRONMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES;

(III) A POTENTIAL REQUIREMENT THAT FOR ANY STATE ACTION THAT MAY CAUSE ADVERSE ENVIRONMENTAL OR PUBLIC HEALTH IMPACTS TO A DISPROPORTIONATELY IMPACTED COMMUNITY, THE ADVERSE ENVIRONMENTAL OR PUBLIC HEALTH MUST BE AVOIDED, AND IF THE EFFECTS CANNOT BE AVOIDED, THEY MUST BE MINIMIZED AND MITIGATED;

(IV) A POTENTIAL REQUIREMENT THAT PERMITS MUST BE ISSUED AND RENEWED ONLY AFTER AN ENVIRONMENTAL EQUITY ANALYSIS DETERMINES THAT THE TERMS AND CONDITIONS OF THE PERMIT OR RENEWAL ARE SUFFICIENT TO ENSURE, TO A REASONABLE CERTAINTY, THAT ANY HARM TO THE HEALTH AND ENVIRONMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES IS EITHER:

(A) AVOIDED; OR

(B) MINIMIZED TO THE EXTENT PRACTICABLE AND, TO THE EXTENT ANY HARM REMAINS, IS MITIGATED;

(V) A POTENTIAL REQUIREMENT THAT ALL ENVIRONMENTAL PROJECTS DEVELOPED AS PART OF A SETTLEMENT RELATING TO VIOLATIONS IN A DISPROPORTIONATELY IMPACTED COMMUNITY ARE DEVELOPED IN CONSULTATION WITH AND THROUGH MEANINGFUL PARTICIPATION OF INDIVIDUALS IN THE DISPROPORTIONATELY IMPACTED COMMUNITY AND RESULT IN IMPROVEMENT TO THE HEALTH AND ENVIRONMENT OF THE AFFECTED DISPROPORTIONATELY IMPACTED COMMUNITY; AND

(VI) RECOMMENDATIONS FOR ESTABLISHING MEASURABLE GOALS FOR REDUCING ENVIRONMENTAL HEALTH DISPARITIES FOR DISPROPORTIONATELY IMPACTED COMMUNITIES;

(b) ADOPTION OF A PLAN THAT ADDRESSES THE LACK OF DATA AND LACK OF DATA SHARING BETWEEN STATE AGENCIES ABOUT POTENTIAL EXPOSURE TO ENVIRONMENTAL HAZARDS AND IMPROVES RESEARCH AND DATA COLLECTION EFFORTS RELATED TO THE HEALTH AND ENVIRONMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES, CLIMATE CHANGE, AND THE INEQUITABLE DISTRIBUTION OF BURDENS AND BENEFITS OF THE MANAGEMENT AND USE OF NATURAL RESOURCES;

(c) THE PROVISIONS OF SECTION 24-4-109 REGARDING ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES, TAKING INTO ACCOUNT BARRIERS TO PARTICIPATION THAT MAY ARISE DUE TO RACE, COLOR, ETHNICITY, RELIGION, INCOME, OR EDUCATION LEVEL; AND

(d) EVALUATING AND PROPOSING RECOMMENDATIONS OR REVISIONS TO THE FOLLOWING DEFINITIONS:

(I) "DISPROPORTIONATELY IMPACTED COMMUNITY" AS DEFINED IN SECTION 24-4-109 (2)(b)(II);

(II) "PROPOSED STATE ACTION" AS DEFINED IN SECTION 24-4-109 (2)(b)(III); AND

(III) "AGENCY" AS DEFINED IN SECTION 24-4-109 (2)(b)(I). IN FORMULATING ITS RECOMMENDATION, THE TASK FORCE SHALL CONSIDER INCLUDING WITHIN THE DEFINITION AT LEAST THE STATE ENTITIES SPECIFIED IN SUBSECTION (1)(c)(I) OF THIS SECTION.

(4) THE TASK FORCE SHALL:

(a) HOLD AT LEAST SIX MEETINGS, WHICH MAY BE ONLINE OR IN PERSON, TO SEEK INPUT FROM, PRESENT ITS WORK PLAN AND PROPOSALS TO, AND RECEIVE FEEDBACK FROM COMMUNITIES THROUGHOUT THE STATE;

(b) SUBMIT A FINAL REPORT OF ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR, THE DEPARTMENT, THE HOUSE OF REPRESENTATIVES AGRICULTURE, LIVESTOCK, AND WATER, ENERGY AND ENVIRONMENT, AND HEALTH AND INSURANCE COMMITTEES, AND THE SENATE AGRICULTURE AND NATURAL RESOURCES, HEALTH AND HUMAN SERVICES, AND TRANSPORTATION AND ENERGY COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, BY NOVEMBER 14, 2022; AND

(c) POST SUMMARIES OF ITS MEETINGS, DRAFT RECOMMENDATIONS, AND THE FINAL REPORT, WHICH MUST BE AVAILABLE AS A PUBLIC RECORD ON THE HOME PAGE OF THE DEPARTMENT'S WEBSITE.

(5) THE DEPARTMENT SHALL INCLUDE UPDATES REGARDING THE TASK FORCE'S ACTIVITIES, INCLUDING ITS FINAL REPORT, IN ITS DEPARTMENTAL PRESENTATION TO LEGISLATIVE COMMITTEES OF REFERENCE PURSUANT TO SECTION 2-7-203.

(6) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

SECTION 5. In Colorado Revised Statutes, 25-7-103, **add** (8.5) as follows:

25-7-103. Definitions. As used in this article 7, unless the context otherwise requires:

(8.5) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

SECTION 6. In Colorado Revised Statutes, 25-7-105, **amend** (1)(e)(III) as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions.

(1) Except as provided in sections 25-7-130 and 25-7-131, the commission shall promulgate such rules and regulations as are consistent with the legislative declaration set forth in section 25-7-102 and necessary for the proper

implementation and administration of this article 7, including, but not limited to:

(e) (III) The commission will identify AND ENGAGE WITH disproportionately impacted communities ~~In identifying these communities, the commission will consider: Minority, low-income, tribal, or indigenous populations in the state that potentially experience disproportionate environmental harms and risks. This disproportionality can be a result of increased vulnerability to environmental degradation, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations. "Disproportionately impacted communities" describes situations where multiple factors, including both environmental and socioeconomic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities~~ AS SPECIFIED IN SECTION 24-4-109.

SECTION 7. In Colorado Revised Statutes, 25-7-114.1, **amend** (1), (2), and (3) introductory portion as follows:

25-7-114.1. Air pollutant emission notices - rules. (1) (a) No person shall permit emission of air pollutants from, or construction or alteration of, any facility, process, or activity except residential structures from which air pollutants are, or are to be, emitted unless and until an air pollutant emission notice has been filed with the division with respect to such emission. THE COMMISSION MAY REQUIRE THAT AIR POLLUTANT EMISSION NOTICES FOR GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6), REPORT THE PREVIOUS CALENDAR YEAR'S EMISSIONS OF GREENHOUSE GAS IN THE FORM OF CARBON DIOXIDE EQUIVALENT. An air pollutant emission notice ~~shall be~~ IS valid for a period of NO MORE THAN five years.

(b) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL 21-1266:

(I) NOTHING:

(A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT OR TIMING; OR

(B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

(II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102 (2)(g), 25-7-105, AND 25-7-140.

(2) ~~All sources existing on or before December 31, 1992, shall file an updated air pollutant emission notice with the division on or before December 31, 1992. In addition,~~ A revised emission notice shall be filed whenever a significant change in emissions, in processes, or in the facility is anticipated or has occurred OR AS THE COMMISSION OTHERWISE DETERMINES TO BE NECESSARY. The revised air pollutant emission notice ~~shall be~~ IS valid for NO MORE THAN five years or until the underlying

permit expires. The commission shall exempt those sources or categories of sources ~~which~~ THAT it determines to be of minor significance from the requirement that an air pollutant emission notice be filed.

(3) The commission shall promulgate a list of air pollutants ~~which~~ THAT are required to be reported in an air pollutant emission notice. NO LATER THAN DECEMBER 31, 2022, THE COMMISSION SHALL INCLUDE GREENHOUSE GAS, AS DEFINED IN SECTION 25-7-140 (6), IN THE LIST OF AIR POLLUTANTS REQUIRED TO BE REPORTED IN AN AIR POLLUTANT EMISSION NOTICE AND SHALL IDENTIFY THE CATEGORIES OF SOURCES FOR WHICH AND THE THRESHOLDS BELOW WHICH GREENHOUSE GAS DOES NOT NEED TO BE REPORTED IN AN AIR POLLUTANT EMISSION NOTICE. AN AIR POLLUTANT EMISSION NOTICE FOR GREENHOUSE GASES NEED NOT BE REQUIRED FOR A FACILITY OR ENTITY THAT IS OTHERWISE EXEMPT FROM REPORTING GREENHOUSE GAS EMISSIONS TO THE DIVISION PURSUANT TO A RULE ADOPTED BY THE COMMISSION. Prior to the commission's promulgation of such a list of air pollutants to be reported in an air pollutant emission notice, sources shall report any emissions of the following ~~which~~ THAT are in excess of de minimis quantities:

SECTION 8. In Colorado Revised Statutes, 25-7-114.4, **add** (5) as follows:

25-7-114.4. Permit applications - contents - rules - definitions. (5) Provisions for permits for sources that affect disproportionately impacted communities.

(a) **Rules. (I)** NO LATER THAN JUNE 1, 2023, THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (5).

(II) THE COMMISSION MAY SET THRESHOLDS OF AFFECTED POLLUTANTS BELOW WHICH THE REQUIREMENTS OF THIS SECTION DO NOT APPLY.

(III) IN ADOPTING RULES TO IMPLEMENT THIS SUBSECTION (5), THE COMMISSION SHALL IDENTIFY DISPROPORTIONATELY IMPACTED COMMUNITIES.

(IV) THE COMMISSION SHALL PERIODICALLY, BUT NOT LESS OFTEN THAN EVERY THREE YEARS, REVISIT ITS IDENTIFICATION OF DISPROPORTIONATELY IMPACTED COMMUNITIES AND DETERMINATIONS OF AFFECTED POLLUTANTS.

(b) **Applicability and requirements. (I)** THE REQUIREMENTS OF THIS SUBSECTION (5)(b) APPLY TO PERMITS FOR SOURCES OF AFFECTED POLLUTANTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

(II) (A) THE COMMISSION'S RULES MUST PROVIDE FOR ENHANCED MODELING AND MONITORING REQUIREMENTS FOR NEW AND MODIFIED SOURCES OF AFFECTED POLLUTANTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES THAT ARE IDENTIFIED OR APPROVED AT THE TIME OF PERMIT APPLICATION. IN ADOPTING THE RULES, THE COMMISSION SHALL ALSO CONSIDER REQUIRING ENHANCED MONITORING FOR EXISTING SOURCES OF AFFECTED POLLUTANTS.

(B) THE COMMISSION'S RULES MUST IDENTIFY THE TYPES OF MONITORING TECHNOLOGY THAT CAN BE USED BY THE SOURCES OF AFFECTED POLLUTANTS AND MUST ALLOW FOR THE USE OF ALTERNATIVE METHODS OF MONITORING AS APPROVED BY THE DIVISION.

(c) **Fees.** SOURCES OF AFFECTED POLLUTANTS SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (5) SHALL PAY A PROCESSING FEE IN CONFORMITY WITH SECTION 25-7-114.7 (2)(a)(III) TO COVER THE DIVISION'S AND COMMISSION'S DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE REQUIREMENTS OF THIS SECTION. THESE FEES SHALL BE CREDITED TO THE STATIONARY SOURCES CONTROL FUND IN ACCORDANCE WITH SECTION 25-7-114.7 (2)(b)(I).

(d) **Definitions.** AS USED IN THIS SUBSECTION (5), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "AFFECTED POLLUTANTS" MEANS THOSE AIR POLLUTANTS AS DETERMINED BY THE COMMISSION WITH THE POTENTIAL TO CAUSE OR CONTRIBUTE TO SIGNIFICANT HEALTH OR ENVIRONMENTAL IMPACTS. THE TERM INCLUDES:

(A) VOLATILE ORGANIC COMPOUNDS;

(B) OXIDES OF NITROGEN;

(C) HAZARDOUS AIR POLLUTANTS AS IDENTIFIED BY THE COMMISSION, INCLUDING BENZENE, TOLUENE, ETHYLBENZENE AND XYLENE; AND

(D) PARTICULATE MATTER THAT IS TWO AND ONE-HALF MICRONS OR SMALLER.

(II) "SOURCE OF AFFECTED POLLUTANTS" MEANS A STATIONARY SOURCE THAT EMITS ANY AFFECTED POLLUTANT IN AN AMOUNT SUCH THAT A CONSTRUCTION PERMIT IS REQUIRED UNDER COMMISSION RULES.

SECTION 9. In Colorado Revised Statutes, 25-7-114.5, **amend** (12.5)(a)(I) introductory portion, (12.5)(a)(I)(C), (12.5)(a)(I)(D), and (12.5)(b); and **add** (12.5)(a)(I)(E) as follows:

25-7-114.5. Application review - public participation. (12.5)(a)(I) Except for sources involved in agricultural, horticultural, or floricultural production such as farming, seasonal crop drying, animal feeding, or pesticide application, upon determination by the division that the criteria set forth in ~~paragraph (b) of this subsection (12.5)~~ SUBSECTION (12.5)(b) OF THIS SECTION applies to a source that is not required to obtain a renewable operating permit, the division may reopen such construction permit for the purpose of imposing any or all of the following additional terms and conditions:

(C) Operating and maintenance requirements; ~~and~~

(D) Emission control requirements pursuant to section 25-7-109.3; AND

(E) ADDITIONAL MONITORING REQUIREMENTS FOR SOURCES AFFECTING DISPROPORTIONATELY IMPACTED COMMUNITIES.

(b) With the exception of those sources involved in agricultural, horticultural, or floricultural production such as farming, seasonal crop drying, animal feeding, and pesticide application, a source's construction permit may be reopened for cause for the purposes of ~~paragraph (a) of this subsection (12.5)~~ SUBSECTION (12.5)(a) OF THIS

SECTION only upon a determination by the division that the location of the source is significant in terms of its proximity to residential or business areas OR A DISPROPORTIONATELY IMPACTED COMMUNITY, and one or more of the following criteria apply to the permitted source:

(I) The control equipment utilized by the source requires an unusually high degree of maintenance or operational sensitivity when compared to control equipment in general; ~~or~~

(II) The design characteristics of the source require an unusually high degree of maintenance or operational sensitivity when compared to the design characteristics of all sources in general; ~~or~~

(III) The application of the control equipment utilized is unique or untested; ~~or~~

(IV) The operational variability of the source may impact the effectiveness of the controls; ~~or~~

(V) The emissions from the source will threaten public health, as determined pursuant to section 25-7-109.3; OR

(VI) THE EMISSIONS FROM THE SOURCE WILL AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY.

SECTION 10. In Colorado Revised Statutes, 25-7-114.7, **amend** (1)(a)(II), (2)(a)(I) introductory portion, (2)(b)(III) introductory portion, and (2)(b)(III)(G); and **add** (2)(a)(VII), (2)(b)(III)(I), (2)(b)(III)(J), and (2)(h) as follows:

25-7-114.7. Emission fees - fund - rules - definition - repeal. (1) As used in this section, unless the context otherwise requires:

(a) Indirect and direct costs include, but are not limited to:

(II) Implementing and enforcing the terms and conditions of any ~~such~~ permit OR RULE, not including court costs or other legal costs associated with any enforcement action;

(2) (a) (I) EXCEPT AS SPECIFIED IN SUBSECTION (2)(a)(VII) OF THIS SECTION, the commission shall designate by rule those classes of sources of air pollution that are exempt from the requirement to pay an annual emission fee. Every owner or operator of an air pollution source not otherwise exempt in accordance with such commission rules shall pay an annual fee as follows:

(VII) THE COMMISSION SHALL ESTABLISH, BY RULE, A FEE PER TON OF GREENHOUSE GAS, IN THE FORM OF CARBON DIOXIDE EQUIVALENT, THAT WAS REPORTED IN THE MOST RECENT AIR POLLUTANT EMISSION NOTICE ON FILE WITH THE DIVISION IN AN AMOUNT THAT IS SUFFICIENT TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS. THE COMMISSION MAY SET THRESHOLDS OF REPORTED GREENHOUSE GAS BELOW WHICH NO SUCH FEE SHALL BE ASSESSED. NO MORE FREQUENTLY THAN ANNUALLY,

THE COMMISSION MAY ADJUST THE FEE FOR GREENHOUSE GAS BY RULE TO COVER THE INDIRECT AND DIRECT COSTS REQUIRED TO DEVELOP AND ADMINISTER THE PROGRAMS ESTABLISHED PURSUANT TO THIS ARTICLE 7 THAT PERTAIN TO EMISSIONS OF GREENHOUSE GAS.

(b) (III) The division shall expend the portion of the fee revenue collected pursuant to subsections (2)(a)(I)(A), (2)(a)(I)(B), ~~and~~ (2)(a)(III), AND (2)(a)(VII) of this section and section 25-7-114.1 (6)(a) attributable to the increases authorized in 2020 by Senate Bill 20-204 AND IN 2021 BY HOUSE BILL 21-1266 for the following purposes:

(G) Expanding the division's capacity to quickly respond to and better understand public health issues that are related to exposure to air toxics, such as benzene and other volatile organic compounds; ~~and~~

(I) ENABLING OUTREACH TO AND ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(J) PAYING FOR THE ENVIRONMENTAL JUSTICE OMBUDSPERSON CREATED IN SECTION 25-1-134.

(h) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL 21-1266:

(I) NOTHING:

(A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT OR TIMING; OR

(B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

(II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102 (2)(g), 25-7-105, AND 25-7-140.

SECTION 11. In Colorado Revised Statutes, 25-7-115, **amend** (3)(b) as follows:

25-7-115. Enforcement. (3) (b) If, after any such conference, a violation or noncompliance is determined to have occurred, the division shall issue an order requiring the owner or operator or any other responsible person to comply, unless the owner or operator demonstrates that ~~such~~ THE violation occurred during a period of start-up, shutdown, or malfunction and timely notice was given to the division of ~~such~~ THE condition. ~~Such~~ THE order may include termination, modification, or revocation and reissuance of the subject permit, ~~and~~ the assessment of civil penalties in accordance with section 25-7-122, ~~Such~~ AND, IN ADDITION TO CIVIL PENALTIES, A REQUIREMENT TO PERFORM ONE OR MORE PROJECTS TO MITIGATE VIOLATIONS RELATED TO EXCESS EMISSIONS. THE order may also require the calculation of a noncompliance penalty under subsection (5) of this section. Unless enforcement of

its order has been stayed as provided in ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b) of this section, the division may seek enforcement, pursuant to section 25-7-121 or 25-7-122, of the applicable ~~regulation~~ RULE of the commission, order issued pursuant to section 25-7-121 or 25-7-122 ~~of~~ OR the applicable ~~regulation~~ RULE of the commission, order issued pursuant to section 25-7-118, requirement of the state implementation plan, provision of this ~~article~~ ARTICLE 7, or terms or conditions of a permit required pursuant to this ~~article~~ ARTICLE 7 in the district court for the district where the affected air pollution source is located. The court shall issue an appropriate order, which may include a schedule for compliance by the owner or operator of the source.

SECTION 12. In Colorado Revised Statutes, **add** 25-1-134 as follows:

25-1-134. Environmental justice - ombudsperson - advisory board - grant program - definitions - repeal. (1) Environmental justice ombudsperson.

(a) THERE IS HEREBY CREATED IN THE DEPARTMENT THE POSITION OF AN ENVIRONMENTAL JUSTICE OMBUDSPERSON. THE OMBUDSPERSON REPORTS TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT. THE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT FOR THE OMBUDSPERSON. THE OMBUDSPERSON OTHERWISE FUNCTIONS INDEPENDENTLY IN EXERCISING ITS POWERS.

(b) THE GOVERNOR SHALL APPOINT THE OMBUDSPERSON AS SOON AS PRACTICABLE BUT NO LATER THAN FEBRUARY 1, 2022, AND AS NECESSARY THEREAFTER TO FILL A VACANCY. PRIOR TO AN APPOINTMENT, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL CONSULT WITH, AND MAY RECEIVE RECOMMENDATIONS FROM, THE ADVISORY BOARD, THE GENERAL ASSEMBLY, REPRESENTATIVES OF DISPROPORTIONATELY IMPACTED COMMUNITIES, AND OTHER RELEVANT STAKEHOLDERS REGARDING THE SELECTION OF THE OMBUDSPERSON.

(c) THE OMBUDSPERSON MUST BE QUALIFIED BY TRAINING OR EXPERIENCE IN ENVIRONMENTAL JUSTICE, AND SHOULD HAVE BEEN A RESIDENT OF ONE OR MORE DISPROPORTIONATELY IMPACTED COMMUNITIES OR HAVE WORKED TO ADVANCE ENVIRONMENTAL JUSTICE WITHIN DISPROPORTIONATELY IMPACTED COMMUNITIES.

(d) THE OMBUDSPERSON SHALL:

(I) COLLABORATE WITH THE ADVISORY BOARD ESTABLISHED IN SUBSECTION (2) OF THIS SECTION FOR THE PURPOSE OF PROMOTING ENVIRONMENTAL JUSTICE FOR THE PEOPLE OF COLORADO;

(II) SERVE AS AN ADVOCATE FOR DISPROPORTIONATELY IMPACTED COMMUNITIES AND AS A LIAISON BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE DEPARTMENT, INCLUDING WITH RESPECT TO COMMUNICATIONS REGARDING THE GRANT PROGRAM TO FUND ENVIRONMENTAL MITIGATION PROJECTS;

(III) WORK TO IMPROVE THE RELATIONSHIPS AND INTERACTIONS BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE DEPARTMENT;

(IV) INCREASE THE FLOW OF INFORMATION BETWEEN THE DEPARTMENT AND DISPROPORTIONATELY IMPACTED COMMUNITIES CONCERNING THE ENVIRONMENT AND DEPARTMENTAL PROGRAMS USING METHODS OF OUTREACH THAT INCLUDE, AT

A MINIMUM:

(A) DISSEMINATING INFORMATION THROUGH LOCAL SCHOOLS, SOCIAL MEDIA, LOCAL SOCIAL AND ACTIVITY CLUBS, LIBRARIES, OR OTHER LOCAL SERVICES; AND

(B) PRIORITIZING IN-PERSON MEETINGS IN COMMUNITIES WITH POPULATIONS THAT ARE PREDOMINANTLY BLACK, INDIGENOUS, LATINO, OR ASIAN AMERICANS THAT HAVE A MEDIAN INCOME BELOW THE STATE'S AVERAGE, OR THAT ARE IN RURAL LOCATIONS;

(V) IDENTIFY WAYS TO ENABLE MEANINGFUL PARTICIPATION BY DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE DECISION-MAKING PROCESSES OF THE DEPARTMENT;

(VI) COORDINATE WITH THE OFFICE OF HEALTH EQUITY, CREATED IN SECTION 25-4-2204;

(VII) MAINTAIN A TELEPHONE NUMBER, WEBSITE, E-MAIL ADDRESS, AND MAILING ADDRESS FOR THE RECEIPT OF COMPLAINTS AND INQUIRIES FOR MATTERS PERTAINING TO ENVIRONMENTAL JUSTICE;

(VIII) ESTABLISH PROCEDURES TO ADDRESS COMPLAINTS PERTAINING TO ENVIRONMENTAL JUSTICE TO THE EXTENT PRACTICABLE;

(IX) CONSULT WITH THE DIVISION OF ADMINISTRATION IN REPORTING TO THE AIR QUALITY CONTROL COMMISSION, CREATED IN SECTION 25-7-104, ON EQUITABLE PROGRESS TOWARD THE STATE'S GREENHOUSE GAS REDUCTION GOALS; AND

(X) SERVE IN AN ADVISORY CAPACITY, AS REQUESTED, TO OTHER STATE AGENCIES CONDUCTING OUTREACH TO AND ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES IN LIGHT OF A PROPOSED AGENCY ACTION.

(2) **Environmental justice advisory board.** (a) THERE IS HEREBY CREATED IN THE DEPARTMENT THE ENVIRONMENTAL JUSTICE ADVISORY BOARD.

(b) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2), THE MEMBERS OF THE ADVISORY BOARD ARE APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS AS SOON AS PRACTICABLE, BUT NO LATER THAN FOUR MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION. AN APPOINTING AUTHORITY MAY REMOVE A MEMBER OF THE ADVISORY BOARD FOR MALFEASANCE IN OFFICE, FAILURE TO REGULARLY ATTEND MEETINGS, OR ANY CAUSE THAT RENDERS THE MEMBER UNABLE OR UNFIT TO DISCHARGE THE MEMBER'S DUTIES.

(c) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING TWELVE MEMBERS WHO, TO THE EXTENT PRACTICABLE, MUST RESIDE IN DIFFERENT GEOGRAPHIC AREAS OF THE STATE, REFLECT THE RACIAL AND ETHNIC DIVERSITY OF THE STATE, AND HAVE EXPERIENCE WITH A RANGE OF ENVIRONMENTAL ISSUES, INCLUDING AIR POLLUTION, WATER CONTAMINATION, AND PUBLIC HEALTH IMPACTS:

(I) FOUR VOTING MEMBERS APPOINTED BY THE GOVERNOR, WHO MUST BE OR HAVE BEEN RESIDENTS OF A DISPROPORTIONATELY IMPACTED COMMUNITY;

(II) THREE VOTING MEMBERS APPOINTED BY THE GOVERNOR, ONE OF WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT REPRESENTS STATEWIDE INTERESTS TO ADVANCE RACIAL JUSTICE, ONE OF WHOM MUST BE FROM A NONGOVERNMENTAL ORGANIZATION THAT REPRESENTS STATEWIDE INTERESTS TO ADVANCE ENVIRONMENTAL JUSTICE, AND ONE OF WHOM MUST REPRESENT WORKER INTERESTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, AS A NONVOTING MEMBER; AND

(IV) FOUR VOTING MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(d) (I) EXCEPT AS PROVIDED IN SUBSECTION (2)(d)(II) OF THIS SECTION, EACH MEMBER'S TERM OF APPOINTMENT IS FOUR YEARS. VOTING MEMBERS MAY SERVE NO MORE THAN TWO TERMS. THE GOVERNOR SHALL FILL ANY VACANCIES ON THE ADVISORY BOARD, INCLUDING FOR THE REMAINDER OF ANY UNEXPIRED TERM. A MEMBER APPOINTED TO FILL A VACANCY MAY SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE MEMBER WHOSE VACANCY IS BEING FILLED, AND THIS REMAINDER COUNTS AS ONE TERM FOR THAT APPOINTEE.

(II) IN ORDER TO ENSURE STAGGERED TERMS OF OFFICE, THE INITIAL TERM OF TWO MEMBERS APPOINTED BY THE GOVERNOR PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION, AS SPECIFIED BY THE GOVERNOR, AND TWO MEMBERS APPOINTED PURSUANT TO SUBSECTION (2)(c)(IV) OF THIS SECTION, AS SPECIFIED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, IS TWO YEARS.

(e) (I) EACH VOTING MEMBER OF THE ADVISORY BOARD APPOINTED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION IS ENTITLED TO RECEIVE A PER DIEM OF TWO HUNDRED DOLLARS FOR ATTENDANCE AT REGULARLY SCHEDULED MEETINGS OF THE BOARD DURING THE 2021-22 STATE FISCAL YEAR. FOR EACH STATE FISCAL YEAR THEREAFTER, THE PER DIEM AMOUNT SHALL BE ANNUALLY ADJUSTED FOR INFLATION BASED ON THE PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR INDEX. VOTING MEMBERS OF THE BOARD ARE ALSO ENTITLED TO RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL DUTIES.

(II) THE NONVOTING MEMBER OF THE ADVISORY BOARD MAY NOT RECEIVE A PER DIEM, BUT MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED WHILE PERFORMING OFFICIAL DUTIES.

(f) THE ADVISORY BOARD SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS EVERY YEAR. THE ADVISORY BOARD SHALL MEET AT LEAST ONCE EVERY QUARTER. THE CHAIR MAY SCHEDULE ALL SUCH ADDITIONAL MEETINGS AS ARE NECESSARY FOR THE ADVISORY BOARD TO COMPLETE ITS DUTIES.

(g) THE ADVISORY BOARD SHALL:

(I) SERVE IN AN ADVISORY CAPACITY TO THE OMBUDSPERSON IN THE

PERFORMANCE OF THE DUTIES OF THE OMBUDSPERSON;

(II) HOLD A PORTION OF ADVISORY BOARD MEETINGS FOR THE OMBUDSPERSON TO JOINTLY RECEIVE STAKEHOLDER INPUT INTO THE ACTIVITIES AND PRIORITIES OF THE OMBUDSPERSON;

(III) DEVELOP A PUBLIC COMPLAINT PROCESS RELATED TO THE PERFORMANCE OF THE OMBUDSPERSON;

(IV) DEVELOP RECOMMENDATIONS TO ADDRESS ANY OTHER MATTERS RELATING TO ADVERSE ENVIRONMENTAL EFFECTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES AS REFERRED TO THE ADVISORY BOARD BY THE GOVERNOR OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT;

(V) DEVELOP POLICIES AS ARE NECESSARY FOR THE CONDUCT OF ITS AFFAIRS AND ITS MEETINGS, AND POST ALL POLICIES ON ITS WEBSITE, INCLUDING A CONFLICT OF INTEREST POLICY FOR ITS MEMBERS, WHICH MUST REQUIRE THE DISCLOSURE OF ANY POTENTIAL FINANCIAL INTEREST OF ANY MEMBER OR RELATIVE OF ANY MEMBER IN A PROPOSED ENVIRONMENTAL MITIGATION PROJECT. A BOARD MEMBER WHO HAS A PERSONAL OR FINANCIAL INTEREST IN AN ENVIRONMENTAL MITIGATION PROJECT UNDER CONSIDERATION SHALL RECUSE THE BOARD MEMBER FROM ANY VOTE ON THAT PROJECT.

(VI) ADVISE THE DEPARTMENT ON MATTERS TO ENABLE THE DEPARTMENT TO INTERACT WITH DISPROPORTIONATELY IMPACTED COMMUNITIES IN THE BEST MANNER POSSIBLE;

(VII) SUPPORT THE IMPLEMENTATION OF A GRANT PROGRAM TO FUND ENVIRONMENTAL MITIGATION PROJECTS FROM THE COMMUNITY IMPACT CASH FUND CREATED IN SECTION 25-7-129 IN ACCORDANCE WITH THIS SUBSECTION (2)(g)(VII) BY PERFORMING THE FOLLOWING DUTIES:

(A) THE ADVISORY BOARD SHALL DEVELOP GUIDELINES FOR A GRANT PROGRAM TO FUND ENVIRONMENTAL MITIGATION PROJECTS, WITH INPUT FROM THE DEPARTMENT. THE GUIDELINES MUST INCLUDE: PROCEDURES FOR APPLICANTS TO SUBMIT APPLICATIONS TO THE BOARD, AND FOR SELECTION OF ENVIRONMENTAL MITIGATION PROJECTS TO FUND; PROVISIONS TO ENSURE THAT THE APPLICATIONS ARE CONCISE, STRAIGHTFORWARD, OBJECTIVE, INCLUSIVE, AND ACCESSIBLE TO ALL INTERESTED PARTIES; A REQUIREMENT THAT THE APPLICANT DISCLOSE ANY CONFLICT OF INTEREST, SUCH AS A PERSONAL OR FINANCIAL RELATIONSHIP WITH ANY MEMBER OF THE ADVISORY BOARD; AND IDENTIFICATION OF ANY INFORMATION NECESSARY TO BE INCLUDED IN AN APPLICATION TO ENSURE THE ADVISORY BOARD CAN PREPARE THE REPORT REQUIRED BY SUBSECTION (2)(g)(VII)(C) OF THIS SECTION.

(B) THE ADVISORY BOARD SHALL REVIEW EACH APPLICATION THAT IT RECEIVES AND MAY AWARD GRANTS, SUBJECT TO APPROPRIATIONS AND AVAILABLE FUNDING, TO APPLICANTS TO FUND ENVIRONMENTAL MITIGATION PROJECTS IN DISPROPORTIONATELY IMPACTED COMMUNITIES.

(C) THE ADVISORY BOARD SHALL COMPILE AN ANNUAL REPORT THAT DETAILS

INFORMATION ABOUT THE ENVIRONMENTAL MITIGATION PROJECTS THAT ARE AWARDED GRANTS, INCLUDING: DETAILS ABOUT THE DISPROPORTIONATELY IMPACTED COMMUNITY IN WHICH THE PROJECT WILL TAKE PLACE, INCLUDING INFORMATION ABOUT POLLUTION LEVELS, HEALTH DISPARITIES, AND DEMOGRAPHICS; THE RELATIONSHIP BETWEEN THE COMMUNITY, THE PROJECT, AND ANY VIOLATIONS THAT GAVE RISE TO PENALTIES PAID INTO THE COMMUNITY IMPACT CASH FUND CREATED IN SECTION 25-7-129; THE STATUS OF THE PROJECT, THE ENGAGEMENT BETWEEN THE PROJECT AND THE COMMUNITY, AND THE REACTION OF THE DISPROPORTIONATELY IMPACTED COMMUNITY TO THE PROJECT; AND OTHER DETAILS AS THE ADVISORY BOARD DEEMS APPROPRIATE. THE ANNUAL REPORT SHALL BE MADE PUBLICLY ACCESSIBLE, INCLUDING ON THE ADVISORY BOARD'S WEBSITE.

(h) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE THE REPEAL, THE ADVISORY BOARD AND ITS FUNCTIONS ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 2-3-1203.

(3) **Records and meetings.** THE ADVISORY BOARD AND THE OMBUDSPERSON ARE SUBJECT TO ALL THE APPLICABLE REQUIREMENTS OF THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND THE OPEN MEETINGS LAW CONTAINED IN PART 4 OF ARTICLE 6 OF TITLE 24.

(4) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVISORY BOARD" MEANS THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN SUBSECTION (2) OF THIS SECTION.

(b) "ENVIRONMENTAL MITIGATION PROJECT" MEANS ANY PROJECT THAT AVOIDS, MINIMIZES, MEASURES, OR MITIGATES ADVERSE ENVIRONMENTAL IMPACTS IN A DISPROPORTIONATELY IMPACTED COMMUNITY, INCLUDING, WITHOUT LIMITATION, HEALTH EFFECTS, HEALTH DISPARITIES, AND OTHER ENVIRONMENTAL IMPACTS OR THAT PROMOTES EQUITABLE PARTICIPATION IN A RULE-MAKING PROCEEDING THAT MAY AFFECT A DISPROPORTIONATELY IMPACTED COMMUNITY.

(c) "OMBUDSPERSON" MEANS THE ENVIRONMENTAL JUSTICE OMBUDSPERSON APPOINTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

SECTION 13. In Colorado Revised Statutes, **amend 25-7-129** as follows:

25-7-129. Disposition of fines - community impact cash fund - repeal.

(1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE COMMUNITY IMPACT CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO SUBSECTION (2) OF THIS SECTION, AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR REMAINS IN THE FUND.

(2) (a) All receipts from penalties or fines collected under ~~the provisions of~~

sections 25-7-115, 25-7-122, and 25-7-123 shall be credited to the general fund of the state IN THE FOLLOWING MANNER:

(I) FOR STATE FISCAL YEAR 2021-22, TWENTY PERCENT OF THE RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO THE FUND, AND EIGHTY PERCENT TO THE GENERAL FUND;

(II) FOR STATE FISCAL YEAR 2022-23, FORTY PERCENT OF THE RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO THE FUND, AND SIXTY PERCENT TO THE GENERAL FUND;

(III) FOR STATE FISCAL YEAR 2023-24, SIXTY PERCENT OF THE RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO THE FUND, AND FORTY PERCENT TO THE GENERAL FUND;

(IV) FOR STATE FISCAL YEAR 2024-25, EIGHTY PERCENT OF THE RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO THE FUND, AND TWENTY PERCENT TO THE GENERAL FUND; AND

(V) FOR STATE FISCAL YEAR 2025-26 AND ANY STATE FISCAL YEAR THEREAFTER, ONE HUNDRED PERCENT OF THE RECEIPTS FROM PENALTIES OR FINES COLLECTED DURING THE FISCAL YEAR SHALL BE CREDITED TO THE FUND.

(b) THIS SUBSECTION (2)(b) AND SUBSECTIONS (2)(a)(I), (2)(a)(II), (2)(a)(III), AND (2)(a)(IV) OF THIS SECTION ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2027.

(3) (a) BEGINNING IN FISCAL YEAR 2022-23, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND TO PROVIDE GRANTS FOR ENVIRONMENTAL MITIGATION PROJECTS PURSUANT TO SECTION 25-1-134 (2)(g)(VII).

(b) MONEY IN THE FUND MAY ALSO PAY FOR THE DIRECT AND INDIRECT COSTS OF THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN SECTION 25-1-134(2), INCLUDING PER DIEM AND EXPENSES OF THE ADVISORY BOARD, AND THE DEPARTMENT'S COSTS FOR ADMINISTERING THE GRANT PROGRAM CREATED IN SECTION 25-1-134 (2)(g)(VII).

(c) MONEY IN THE FUND IS EXEMPT FROM SECTION 24-75-402 (3).

(d) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (3).

(e) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT TO ACCOMPLISH THE PURPOSES SET FORTH IN THIS SUBSECTION (3).

SECTION 14. In Colorado Revised Statutes, 25-7-105, **amend** (1) introductory portion, (1)(e)(I), and (1)(e)(VII); and **add** (1)(d.5), (1)(e)(VIII)(G), (1)(e)(VIII)(H), (1)(e)(VIII)(I), (1)(e)(VIII)(J), (1)(e)(VIII.5), (1)(e)(XI)(B.5), (1)(e)(XII), (1)(e)(XIII), (1)(f), and (1)(g) as follows:

25-7-105. Duties of commission - rules - legislative declaration - definitions.

(1) Except as provided in sections 25-7-130 and 25-7-131, the commission shall promulgate such rules ~~and regulations~~ as are consistent with the legislative declaration set forth in section 25-7-102 and necessary for the proper implementation and administration of this article 7, including, but not limited to:

(d.5) ADDITIONAL PERMITTING REQUIREMENTS FOR SOURCES THAT AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES IN CONFORMITY WITH SECTION 25-7-114.4 (5).

(e) (I) Statewide greenhouse gas pollution abatement. AS THE COMMISSION ADOPTS RULES PURSUANT TO THIS SUBSECTION (1)(e), IT SHALL PURSUE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS AS PART OF THE EFFORT TO REDUCE TOTAL CUMULATIVE EMISSIONS OVER TIME.

(VII) Notwithstanding section 24-1-136 (11)(a)(I), the division, at the direction of the commission, shall report to the general assembly every odd-numbered year after May 30, 2019, regarding: Progress toward the goals set forth in section 25-7-102 (2)(g); any newly available, final cost-benefit or regulatory analysis, developed under section 24-4-103 (2.5) or (4.5), for rules adopted to attain the goals; RECOMMENDATIONS ON FUTURE COMMISSION RULES OR POLICIES TO REDUCE GREENHOUSE GAS EMISSIONS SUFFICIENT TO ACHIEVE THE GOALS SET FORTH IN SECTION 25-7-102 (2)(g); and any recommendations on future legislative action to address climate change, ~~such as~~ INCLUDING implementation of climate adaptation policies or accelerating deployment of cleaner technologies. THE DIVISION SHALL MAKE ITS PROPOSED REPORT AVAILABLE FOR PUBLIC REVIEW PRIOR TO PRESENTATION TO THE GENERAL ASSEMBLY. BEGINNING WITH THE REPORT IN 2023, IF THE REPORT INDICATES THAT EMISSION REDUCTIONS REQUIRED BY SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION ARE NOT BEING MET, THE DIVISION SHALL DEVELOP AND PROPOSE ADDITIONAL REQUIREMENTS TO THE COMMISSION, NO LATER THAN SIX MONTHS FROM THE SUBMISSION OF THE REPORT TO THE GENERAL ASSEMBLY, WHICH REQUIREMENTS MUST ADDRESS ANY SHORTFALL BETWEEN THE EMISSION REDUCTIONS ACHIEVED AND THE EMISSION REDUCTIONS NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION. IN EVEN-NUMBERED YEARS WHEN A REPORT IS NOT MADE PURSUANT TO THIS SUBSECTION (1)(e)(VII), THE DIVISION SHALL PROVIDE AN UPDATE TO THE COMMISSION ON PROGRESS TOWARD THE EMISSION REDUCTION REQUIREMENTS IN SUBSECTIONS (1)(e)(XII) AND (1)(e)(XIII) OF THIS SECTION BASED ON ANNUAL DATA REPORTED TO THE DIVISION.

(VIII)(G) THE COMMISSION IS ENCOURAGED TO PURSUE PROGRAMS AND POLICIES THAT ARE CONSISTENT WITH THIS SUBSECTION (1)(e)(VIII) AND THAT INCENTIVIZE VOLUNTARY ADDITIONAL NEAR-TERM GREENHOUSE GAS REDUCTIONS FROM ELECTRIC UTILITIES WITH THE AIM OF REDUCING GREENHOUSE GAS EMISSIONS FROM ELECTRIC UTILITIES BY AT LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030, INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS COMPARED TO A 2005 BASELINE AND ACCELERATING NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS TO INCREASE CUMULATIVE REDUCTIONS FROM ELECTRIC UTILITIES. NOTHING IN THIS SUBSECTION (1)(e)(VIII)(G) LIMITS THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION.

(H) IN VERIFYING CLEAN ENERGY PLANS OR A WHOLESALE GENERATION AND

TRANSMISSION COOPERATIVE ELECTRIC RESOURCE PLAN SUBMITTED IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS SECTION, THE DIVISION SHALL PREVENT DOUBLE COUNTING OF EMISSION REDUCTIONS AMONG UTILITIES AND SHALL CONSIDER ELECTRICITY GENERATED BY RENEWABLE ENERGY RESOURCES AS HAVING ZERO GREENHOUSE GAS EMISSIONS ONLY IF: THE ELECTRICITY IS ACCOMPANIED BY ANY ASSOCIATED RENEWABLE ENERGY CREDIT, AND THE RENEWABLE ENERGY CREDIT IS RETIRED ON BEHALF OF THE UTILITY'S CUSTOMERS IN THE YEAR GENERATED; OR THE ELECTRICITY IS GENERATED BY RETAIL DISTRIBUTED GENERATION, AS DEFINED IN SECTIONS 40-2-124 (1)(a)(VIII) AND 40-2-127 (2)(b)(I)(A) AND (2)(b)(I)(B) AND THE RETAIL CUSTOMER RETAINS THE RENEWABLE ENERGY CREDIT AS PART OF A VOLUNTARY RENEWABLE ENERGY PROGRAM.

(I) EACH WHOLESALE GENERATION AND TRANSMISSION ELECTRIC COOPERATIVE SHALL FILE WITH THE PUBLIC UTILITIES COMMISSION AND THE DIVISION AN ELECTRIC RESOURCE PLAN THAT WILL ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION OF GREENHOUSE GAS EMISSIONS ASSOCIATED WITH THE COOPERATIVE'S SALES OF ELECTRICITY TO CUSTOMERS WITHIN COLORADO BY 2030, RELATIVE TO 2005 LEVELS.

(J) AN ELECTRIC UTILITY THAT IS NOT A QUALIFYING RETAIL UTILITY AS DEFINED IN SECTION 40-2-125.5 (2)(c)(I) THAT IS REQUIRED TO SUBMIT A CLEAN ENERGY PLAN OR A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE THAT IS REQUIRED TO FILE AN ELECTRIC RESOURCE PLAN PURSUANT TO THIS SUBSECTION (1)(e) SHALL PROVIDE WRITTEN NOTICE TO THE DIVISION OF INTENT TO FILE A CLEAN ENERGY PLAN BY AUGUST 1, 2021. AN INVESTOR-OWNED UTILITY THAT HAS NOT ALREADY FILED A CLEAN ENERGY PLAN AND THAT INDICATES AN INTENT TO FILE A CLEAN ENERGY PLAN SHALL FILE A CLEAN ENERGY PLAN WITH THE PUBLIC UTILITIES COMMISSION WITH ITS NEXT RESOURCE PLAN FILING. THE DIVISION SHALL VERIFY EMISSION REDUCTIONS AS PART OF THE PUBLIC UTILITIES COMMISSION PROCEEDING THAT REVIEWS THE RESOURCE PLAN. A UTILITY OTHER THAN AN INVESTOR-OWNED UTILITY OR A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE UTILITY THAT PROVIDED WRITTEN NOTICE OF INTENT TO FILE A VOLUNTARY CLEAN ENERGY PLAN PURSUANT TO THIS SUBSECTION (1)(e)(VIII)(J) SHALL PROVIDE ALL INFORMATION THE DIVISION DEEMS NECESSARY TO EVALUATE AND VERIFY THE EMISSION REDUCTIONS CLAIMED AS PART OF A CLEAN ENERGY PLAN NO LATER THAN DECEMBER 31, 2021. THE DIVISION SHALL, IN CONSULTATION WITH THE PUBLIC UTILITIES COMMISSION, FULLY EVALUATE AND VERIFY THE CLEAN ENERGY PLAN. THE UTILITY MUST SUBMIT THE VERIFIED CLEAN ENERGY PLAN TO THE PUBLIC UTILITIES COMMISSION IN ACCORDANCE WITH SECTION 40-2-125.5 (5)(g)(I) NO LATER THAN JULY 1, 2022. THE DIVISION MAY APPROVE ALTERNATE DATA SUBMISSION AND FILING DEADLINES, TO BE NO LATER THAN DECEMBER 31, 2023, UPON REVIEWING INFORMATION SUPPLIED BY A UTILITY IN CONJUNCTION WITH THE UTILITY'S WRITTEN INTENTION TO FILE IF THE EMISSION REDUCTION CALCULATIONS ARE DEPENDENT ON DECISIONS OF ANOTHER UTILITY SUBJECT TO RESOURCE PLANNING REQUIREMENTS OF THE PUBLIC UTILITIES COMMISSION.

(VIII.5) (A) THIS SUBSECTION (1)(e)(VIII.5)(A) AND SUBSECTIONS (1)(e)(VIII.5)(B) AND (1)(e)(VIII.5)(C) OF THIS SECTION APPLY ONLY TO AN ELECTRIC UTILITY THAT SERVES AT LEAST FIFTY THOUSAND COLORADO RETAIL CUSTOMERS AND OBTAINS LESS THAN EIGHTY PERCENT OF THE LOAD NECESSARY TO

SERVE COLORADO RETAIL CUSTOMERS FROM AN ELECTRIC UTILITY THAT HAS FILED A CLEAN ENERGY PLAN AND OWNS OR PLANS TO INVEST IN, IN WHOLE OR IN PART, AN ELECTRIC GENERATING UNIT WITH A NAMEPLATE CAPACITY LARGER THAN FIFTY MEGAWATTS THAT DIRECTLY EMITS GREENHOUSE GASES INTO THE ATMOSPHERE, INCLUDING GENERATING UNITS THAT BURN OIL, GAS, OR COAL. THE REQUIREMENTS OF SUBSECTIONS (1)(e)(VIII.5)(B) AND (1)(e)(VIII.5)(C) OF THIS SECTION BECOME APPLICABLE IF AN ELECTRIC UTILITY SATISFIES THE CRITERIA SPECIFIED IN THIS SUBSECTION (1)(e)(VIII.5)(A) UPON LEAVING A PROVIDER WHO HAS FILED A CLEAN ENERGY PLAN. THE ELECTRIC UTILITY SHALL PROVIDE NOTICE OF INTENT TO FILE A CLEAN ENERGY PLAN TO THE DIVISION WITHIN SIX MONTHS AFTER BECOMING SUBJECT TO THIS SUBSECTION (1)(e)(VIII.5). THE ELECTRIC UTILITY SHALL FILE A CLEAN ENERGY PLAN PURSUANT TO SUBSECTION (1)(e)(VIII) OF THIS SECTION WITHIN ONE YEAR AFTER BECOMING SUBJECT TO THIS SUBSECTION (1)(e)(VIII.5).

(B) IF AN ELECTRIC UTILITY DOES NOT PROVIDE WRITTEN NOTICE OF INTENT TO FILE A CLEAN ENERGY PLAN WITH THE DIVISION OR DOES NOT SUBMIT A CLEAN ENERGY PLAN AFTER EXPRESSING WRITTEN INTENT TO FILE A PLAN, THE COMMISSION SHALL, WITHIN FIFTEEN MONTHS AFTER THE ELECTRIC UTILITY'S FAILURE TO PROVIDE WRITTEN NOTICE OR SUBMIT A PLAN, ADOPT A RULE TO REDUCE GREENHOUSE GAS EMISSIONS CAUSED BY THE ELECTRIC UTILITY'S COLORADO RETAIL ELECTRICITY SALES OF AT LEAST FORTY-EIGHT PERCENT BY 2025 AND EIGHTY PERCENT BY 2030, INCLUDING EMISSIONS ASSOCIATED WITH IMPORTED ELECTRICITY, AS COMPARED TO A 2005 BASELINE. THE COMMISSION SHALL DESIGN THE RULES TO ACCELERATE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS IN ORDER TO REDUCE TOTAL CUMULATIVE EMISSIONS BETWEEN THE DATE OF ADOPTION AND 2030.

(C) CLEAN ENERGY PLAN FILINGS MUST INCLUDE PROJECTED EMISSIONS FOR EACH CALENDAR YEAR THROUGH 2030 TO INFORM THE STATEWIDE GREENHOUSE GAS PLANNING PROCESS. THE DIVISION SHALL EVALUATE THE REPORTED EMISSIONS AND SUPPLEMENTAL INFORMATION IN AN ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS REPORTING DATA SUBMISSION MADE PURSUANT TO THE COMMISSION'S RULES TO DETERMINE WHETHER AN ELECTRIC UTILITY IS PROGRESSING CONSISTENT WITH THE ANNUAL EMISSIONS PROJECTED BY THE PLAN AND REMAINS ON TRACK TO ACHIEVE THE REDUCTIONS OF THE CLEAN ENERGY PLAN BY 2030. IF THE DIVISION DETERMINES THAT THE ELECTRIC UTILITY IS NOT PROGRESSING AS PLANNED, THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS EMISSIONS EXCEED ANNUAL EMISSIONS PROJECTED AS PART OF AN APPROVED CLEAN ENERGY PLAN FOR TWO CONSECUTIVE YEARS, OR THE ELECTRIC UTILITY'S ANNUAL GREENHOUSE GAS EMISSION REDUCTIONS ARE NOT ON TRACK TO ACHIEVE AT LEAST AN EIGHTY PERCENT REDUCTION BELOW 2005 LEVELS IN GREENHOUSE GAS EMISSIONS BY 2030, THE DIVISION SHALL INCLUDE THIS INFORMATION IN THE NEXT GREENHOUSE GAS PROGRESS BRIEFING TO THE COMMISSION AND THE COMMISSION SHALL, WITHIN NINE MONTHS AFTER RECEIVING THE BRIEFING FROM THE DIVISION, ADOPT RULES THAT REQUIRE AN UPDATED CLEAN ENERGY PLAN TO BE FILED THAT DEMONSTRATES ACHIEVEMENT OF THE 2030 TARGETS AND THE CUMULATIVE EMISSION REDUCTIONS THAT WERE PROJECTED IN THE INITIAL CLEAN ENERGY PLAN. THE UPDATED CLEAN ENERGY PLAN, ONCE VERIFIED BY THE DIVISION, BECOMES THE OPERATIVE PLAN FOR PURPOSES OF SUBSECTION (1)(e)(VIII) OF THIS SECTION REGARDING THE COMMISSION'S REGULATORY REQUIREMENTS.

(D) NOTWITHSTANDING SUBSECTIONS (1)(e)(VIII.5)(A) TO (1)(e)(VIII.5)(C) OF

THIS SECTION, A QUALIFYING RETAIL UTILITY WITH A CLEAN ENERGY PLAN THAT HAS BEEN APPROVED AND VERIFIED IN ACCORDANCE WITH SECTION 40-2-125.5 AND SUBSECTION (1)(e)(VIII)(C) OF THIS SECTION AND A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE WITH AN ELECTRIC RESOURCE PLAN THAT HAS BEEN FILED IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS SECTION AND THAT HAS BEEN APPROVED ARE NOT SUBJECT TO SUBSECTIONS (1)(e)(VIII.5)(A) TO (1)(e)(VIII.5)(C) OF THIS SECTION. PROGRESS OF EMISSION REDUCTIONS FOR AN ELECTRIC UTILITY THAT IS AN INVESTOR-OWNED RETAIL UTILITY WITH A CLEAN ENERGY PLAN THAT HAS BEEN APPROVED AND VERIFIED IN ACCORDANCE WITH SECTION 40-2-125.5 AND SUBSECTION (1)(e)(VIII)(C) OF THIS SECTION OR A WHOLESALE GENERATION AND TRANSMISSION COOPERATIVE WITH AN ELECTRIC RESOURCE PLAN THAT HAS BEEN FILED IN ACCORDANCE WITH SUBSECTION (1)(e)(VIII)(I) OF THIS SECTION AND THAT HAS BEEN APPROVED SHALL BE ASSESSED THROUGH THE RECURRING RESOURCE PLANNING PROCESS AT THE PUBLIC UTILITIES COMMISSION.

(XI) As used in this subsection (1)(e):

(B.5) "INDUSTRIAL AND MANUFACTURING SECTOR" MEANS ENERGY COMBUSTION AND ENERGY USE BY INDUSTRY, INCLUDING: COMBUSTION FROM COAL, DIESEL, GASOLINE, HEAT, LIQUIFIED PETROLEUM GAS, NATURAL GAS, REFINERY FEEDSTOCKS, AND RESIDUAL FUEL OIL; AND INDUSTRIAL PROCESSES, INCLUDING CEMENT MANUFACTURE, ELECTRIC TRANSMISSION AND DISTRIBUTION EQUIPMENT, IRON AND STEEL PRODUCTION, LIME MANUFACTURE, LIMESTONE AND DOLOMITE USE, OZONE DEPLETING SUBSTANCES SUBSTITUTES, SEMICONDUCTOR MANUFACTURE, SODA ASH, AND UREA CONSUMPTION. THE TERM DOES NOT INCLUDE OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TRANSMISSION, AND STORAGE OPERATIONS OTHER THAN ENERGY COMBUSTION EMISSIONS THAT ARE INCLUDED IN THE INDUSTRIAL AND MANUFACTURING SECTOR.

(XII) NO LATER THAN JANUARY 1, 2022, THE COMMISSION SHALL ADOPT, AND THE DIVISION SHALL BEGIN IMPLEMENTING, COMPREHENSIVE RULES THAT WILL REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS FROM OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING, TRANSMISSION, AND STORAGE OPERATIONS IN THE STATE BELOW THE 2005 BASELINE ESTABLISHED FOR THE OIL AND GAS EMISSIONS COVERED BY THE "OIL AND GAS FUGITIVE EMISSIONS" CATEGORY IN THE INITIAL INVENTORY DEVELOPED BY THE DIVISION PURSUANT TO SECTION 25-7-140 (2)(a)(II), TAKING INTO ACCOUNT SUBSECTIONS (1)(e)(II) TO (1)(e)(VI) OF THIS SECTION, BY AT LEAST THIRTY-SIX PERCENT BY 2025 AND SIXTY PERCENT BY 2030. THE COMMISSION SHALL DESIGN THE RULES TO PRIORITIZE NEAR-TERM REDUCTIONS IN GREENHOUSE GAS EMISSIONS. THE RULES MUST INCLUDE:

(A) PROTECTIONS FOR DISPROPORTIONATELY IMPACTED COMMUNITIES, ACHIEVING REDUCTION OF GREENHOUSE GASES AND CO-POLLUTANTS; AND

(B) MORE ROBUST MONITORING, LEAK DETECTION, AND REPAIR REQUIREMENTS, REPORTING, AND RECORD-KEEPING REQUIREMENTS TO ENSURE THAT THE DIVISION CAN ACCURATELY QUANTIFY GREENHOUSE GAS EMISSIONS DURING ALL OPERATING CONDITIONS, INCLUDING EQUIPMENT MALFUNCTIONS; AND

(C) ADDITIONAL DIRECT EMISSION REDUCTION CONTROLS.

(XIII) IN IMPLEMENTING THIS SUBSECTION (1)(e), THE COMMISSION SHALL ADOPT RULES TO REDUCE STATEWIDE GREENHOUSE GAS EMISSIONS FROM THE INDUSTRIAL AND MANUFACTURING SECTOR IN THE STATE BY AT LEAST TWENTY PERCENT BY 2030 BELOW THE 2015 BASELINE ESTABLISHED PURSUANT TO SECTION 25-7-140 (2)(a)(II), TAKING INTO ACCOUNT THE FACTORS SET OUT IN SUBSECTIONS (1)(e)(II) TO (1)(e)(VI) OF THIS SECTION. THE RULES MUST INCLUDE PROTECTIONS FOR DISPROPORTIONATELY IMPACTED COMMUNITIES AND PRIORITIZE EMISSION REDUCTIONS THAT WILL REDUCE EMISSIONS OF CO-POLLUTANTS THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES, BE DESIGNED TO ACCELERATE NEAR-TERM REDUCTIONS, AND SECURE MEANINGFUL EMISSION REDUCTIONS FROM THIS SECTOR TO BE REALIZED BEGINNING NO LATER THAN SEPTEMBER 30, 2024. THE RULES MUST:

(A) BE CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION (1)(e)(IX) OF THIS SECTION; AND

(B) REQUIRE A FIVE PERCENT REDUCTION IN THE GREENHOUSE GAS EMISSIONS ASSOCIATED WITH ENERGY-INTENSIVE, TRADE-EXPOSED MANUFACTURING SOURCES THAT CURRENTLY EMPLOY BEST AVAILABLE EMISSION CONTROL TECHNOLOGIES FOR GREENHOUSE GAS EMISSIONS AND BEST AVAILABLE ENERGY EFFICIENCY PRACTICES, AS DETERMINED BY THE COMMISSION, PURSUANT TO SUBSECTION (1)(e)(IX)(A) OF THIS SECTION.

(f) (I) **Definitions.** THE DEFINITIONS IN SUBSECTION (1)(e)(XI) OF THIS SECTION APPLY TO THIS SUBSECTION (1)(f). AS USED IN THIS SUBSECTION (1)(f), UNLESS THE CONTEXT REQUIRES OTHERWISE:

(A) "GHG CREDIT" MEANS A TRADEABLE COMPLIANCE INSTRUMENT IN A PHYSICAL OR ELECTRONIC FORMAT, THE USE OF WHICH IS AUTHORIZED PURSUANT TO A REGULATORY PROGRAM ADOPTED BY THE COMMISSION THAT REPRESENTS THE REDUCTION OF ONE METRIC TON OF CARBON DIOXIDE EQUIVALENT OF GREENHOUSE GAS BY A REGULATED SOURCE.

(B) "REGULATED SOURCE" MEANS A SOURCE OF GREENHOUSE GAS THAT IS SUBJECT TO A RULE ADOPTED BY THE COMMISSION UNDER SUBSECTION (1)(e) OF THIS SECTION THAT IMPOSES SPECIFIC AND QUANTIFIABLE GREENHOUSE GAS REDUCTION OBLIGATIONS UPON THAT SOURCE OR GROUP OF SOURCES.

(C) "TRADING PROGRAM" MEANS A COMMISSION-ADOPTED REGULATORY PROGRAM THAT ALLOWS FOR REGULATED SOURCES TO MEET THEIR GREENHOUSE GAS COMPLIANCE OBLIGATIONS UNDER SUBSECTION (1)(e) OF THIS SECTION THROUGH THE CREATION, PURCHASE, ACQUISITION, OR EXCHANGE OF, OR OTHER COMMERCIAL-TYPE TRANSACTION INVOLVING, A GHG CREDIT WITH OTHER REGULATED SOURCES.

(II) **Greenhouse gas accounting system.** EXCEPT AS SPECIFIED IN SUBSECTION (1)(f)(III) OF THIS SECTION, BEFORE THE COMMISSION ADOPTS A RULE OR PROGRAM THAT PROVIDES FOR THE USE OF A TRADING PROGRAM, THE COMMISSION SHALL ADOPT A RULE THAT DIRECTS THE DIVISION TO CREATE A COMPREHENSIVE AND CENTRALIZED ACCOUNTING SYSTEM TO TRACK EMISSIONS FROM, AT A MINIMUM, ALL REGULATED SOURCES IN THE STATE COVERED BY OR THAT MAY OTHERWISE

PARTICIPATE IN THAT TRADING PROGRAM, WHICH SYSTEM MUST:

(A) ENABLE THE DIVISION AND THE PUBLIC TO TRACK EMISSION REDUCTIONS, TRADES, AND OTHER TRANSACTIONS BY SOURCES UTILIZING GHG CREDITS OR OTHERWISE PARTICIPATING IN A TRADING PROGRAM, AND TO TRACK ANY TRANSACTIONS THAT TAKE PLACE CONSISTENT WITH THE REQUIREMENTS SET FORTH IN THIS SUBSECTION (1)(f), INCLUDING ALL RULES PROMULGATED PURSUANT TO THIS SUBSECTION (1)(f);

(B) ENABLE THE DIVISION TO PREVENT DOUBLE COUNTING OF GREENHOUSE GAS EMISSION REDUCTIONS; AND

(C) IDENTIFY REGULATED SOURCES THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

(III) THE COMMISSION MAY ADOPT A TRADING PROGRAM AMONG REGULATED SOURCES AS NECESSARY TO TIMELY IMPLEMENT SUBSECTION (1)(e)(IX) OF THIS SECTION IF THAT PROGRAM:

(A) IS ULTIMATELY INTEGRATED INTO THE COMPREHENSIVE AND CENTRALIZED ACCOUNTING SYSTEM DEVELOPED PURSUANT TO SUBSECTION (1)(f)(II) OF THIS SECTION;

(B) ENABLES THE DIVISION TO TRACK THE EMISSIONS OF, AND EMISSION REDUCTIONS, TRADES, AND OTHER TRANSACTIONS BY, ALL REGULATED SOURCES PARTICIPATING IN THE TRADING PROGRAM;

(C) ENABLES THE DIVISION TO PREVENT DOUBLE COUNTING OF GREENHOUSE GAS EMISSION REDUCTIONS; AND

(D) IDENTIFIES REGULATED SOURCES THAT ADVERSELY AFFECT DISPROPORTIONATELY IMPACTED COMMUNITIES THROUGH THEIR EMISSIONS OF LOCALLY HARMFUL AIR POLLUTANTS.

(g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL 21-1266:

(I) NOTHING:

(A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT OR TIMING; OR

(B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

(II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO PUBLISH AND PROMULGATE RULES PURSUANT TO THIS SECTION AND SECTIONS 25-7-102 (2)(g) AND 25-7-140.

SECTION 15. In Colorado Revised Statutes, 25-7-109.3, **amend** (2) as follows:

25-7-109.3. Colorado hazardous air pollutant control and reduction program - rules. (2) EXCEPT AS PROVIDED IN SECTION 25-7-114.4 (5), the commission may only promulgate ~~regulations~~ RULES pertaining to hazardous air pollutants as defined in section 25-7-103 (13) in accordance with this section. In order to minimize additional regulatory and compliance costs to the state's economy, any program created by the commission pursuant to this section ~~shall~~ MUST contain a provision ~~which~~ THAT exempts those sources or categories of sources ~~which~~ THAT it determines to be of minor significance from the requirements of the program. Consistent with the provisions of section 25-7-105.1, the commission shall authorize synthetic minor sources of hazardous air pollutants by the issuance of construction permits or prohibitory OR OTHER rules. ~~or other regulations.~~ Such permits OR rules ~~or regulations shall~~ MUST only be as stringent as necessary to establish synthetic minor status. The commission shall expeditiously implement this subsection (2) to assure that all sources may be able to timely qualify as a synthetic minor source, thereby avoiding the costs of the operating permit program.

SECTION 16. In Colorado Revised Statutes, 25-7-110.5, **amend** (4)(e); and **add** (4)(f) and (4)(g) as follows:

25-7-110.5. Required analysis of proposed air quality rules. (4) (e) EXCEPT AS PROVIDED IN SUBSECTION (4)(f) OF THIS SECTION, the economic impact analysis required by this subsection (4) ~~shall~~ MUST not consist of an analysis of any nonmarket costs or external costs asserted to occur notwithstanding compliance by a source with applicable environmental regulations.

(f) FOR A RULE THAT IMPLEMENTS SECTION 25-7-105 (1)(e) THAT MAY MATERIALLY AFFECT GREENHOUSE GAS EMISSIONS, THE ECONOMIC IMPACT ANALYSIS REQUIRED BY THIS SUBSECTION (4) MUST INCLUDE AN ANALYSIS OF THE SOCIAL COST OF GREENHOUSE GASES RELATED TO THE ESTIMATED EMISSION REDUCTIONS FROM THE PROPOSED RULE. THE ANALYSIS MUST USE THE MOST RECENT ASSESSMENT OF THE SOCIAL COST FOR THOSE GREENHOUSE GASES FOR WHICH THE FEDERAL GOVERNMENT HAS DETERMINED THE COST, AND THE CONSIDERATION OF THE SOCIAL COST OF GREENHOUSE GASES MUST BE CONSISTENT WITH EXISTING LAW AND INCLUDE USE OF A DISCOUNT RATE OF NO MORE THAN TWO AND ONE-HALF PERCENT; EXCEPT THAT THE SOCIAL COST OF GREENHOUSE GASES THAT IS USED MAY NOT BE LOWER THAN THAT ESTABLISHED IN 2016, USING A TWO AND ONE-HALF PERCENT DISCOUNT RATE, BY THE FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF CARBON OR THAN THE FINAL SOCIAL COST OF GREENHOUSE GASES, USING A TWO AND ONE-HALF PERCENT OR LOWER EFFECTIVE DISCOUNT RATE, ESTABLISHED BY THE FEDERAL INTERAGENCY WORKING GROUP ON THE SOCIAL COST OF GREENHOUSE GASES PURSUANT TO FEDERAL EXECUTIVE ORDER 13990, DATED JANUARY 20, 2021, WHICHEVER IS HIGHER.

(g) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL 21-1266:

(I) NOTHING:

(A) ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT OR TIMING; OR

(B) DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

(II) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO PUBLISH AND PROMULGATE RULES PURSUANT TO SECTIONS 25-7-102 (2)(g), 25-7-105, AND 25-7-140.

SECTION 17. In Colorado Revised Statutes, 25-7-140, **amend** (2)(a)(I) and (2)(a)(II); and **add** (2)(a)(IV) as follows:

25-7-140. Greenhouse gas emissions - data collection - legislative declaration - rules - reporting - forecasting - public information - definitions. (2) Rules.
(a) The commission shall:

(I) ~~By June 1, 2020,~~ Adopt rules requiring greenhouse gas-emitting entities to monitor and publicly report their emissions as the commission deems appropriate to support Colorado's greenhouse gas emission inventory efforts and to facilitate implementation of rules that will timely achieve Colorado's greenhouse gas emission reduction goals. The commission shall consider what information is already being publicly reported by the federal environmental protection agency and tailor new reporting requirements to fill any gaps in data, as it determines is appropriate, to allow for maintaining and updating state inventories that are sufficiently comprehensive and robust. The rules must include requirements for providers of retail or wholesale electric service in the state of Colorado to track and report emissions from all generation sources within the state and elsewhere that electricity consumption by their customers in this state causes to be emitted. The commission may require emitting entities to report the amount of emissions of each of the seven individual components of greenhouse gases as well as the carbon dioxide equivalent of those emissions.

(II) Direct the division to update the statewide inventory of greenhouse gas emissions by sector, up to on an annual basis as determined by the commission, but in no event less frequently than every two years. The division shall update the inventory in a manner that allows reasonable tracking of progress in reducing greenhouse gas emissions over time. The commission shall take reasonable steps to ensure that emission abatement that counts toward meeting the state's greenhouse gas emission reduction goals is durable and rigorously tracked. The inventory must include a forecast of Colorado's greenhouse gas emissions for the milestone year of 2025, as well as 2030, 2035, 2040, and 2045. THE DIVISION SHALL MAKE PUBLICLY AVAILABLE THE DATA UPON WHICH PROJECTIONS ARE BASED, INCLUDING THE SOURCES OF THAT DATA, THE INPUTS FOR ANY MODEL USED, AND A DESCRIPTION OF THE ANALYSIS UNDERLYING THE PROJECTIONS. THE FORECAST MUST INCLUDE AT LEAST ONE SCENARIO THAT DOES NOT INCLUDE EMISSION REDUCTIONS PROJECTED TO OCCUR FROM ANY FEDERAL, STATE, OR LOCAL LAW, RULE, REGULATION, POLICY, OR PROGRAM THAT IS NOT IN PLACE AS OF THE DATE OF PUBLICATION OF THE INVENTORY. The initial inventory required under this subsection (2) must include a recalculation of Colorado's 2005 greenhouse gas emissions to serve as a baseline for measuring progress against Colorado's greenhouse gas emission reduction goals.

(IV) WITH REGARD TO THE CHANGES MADE IN 2021 BY HOUSE BILL 21-1266:

(A) NOTHING ALTERS THE GREENHOUSE GAS EMISSION REDUCTION GOALS PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g), IN EITHER AMOUNT OR TIMING, OR DETRACTS FROM THE AIR QUALITY CONTROL COMMISSION'S EXISTING AUTHORITY TO REQUIRE MORE THAN THE MINIMUM GREENHOUSE GAS EMISSION REDUCTION GOALS AND DEADLINES PREVIOUSLY ESTABLISHED IN SECTION 25-7-102 (2)(g); AND

(B) THE CHANGES ADD TO, BUT DO NOT OTHERWISE ALTER, THE AIR QUALITY CONTROL COMMISSION'S AUTHORITY AND OBLIGATION TO PUBLISH AND PROMULGATE RULES PURSUANT TO THIS SECTION AND SECTIONS 25-7-102 (2)(g), AND 25-7-105.

SECTION 18. In Colorado Revised Statutes, 2-3-1203, **add** (18.5)(a)(II) as follows:

2-3-1203. Sunset review of advisory committees - legislative declaration - definition - repeal. (18.5) (a) The following statutory authorizations for the designated advisory committees will repeal on September 1, 2027:

(II) THE ENVIRONMENTAL JUSTICE ADVISORY BOARD CREATED IN SECTION 25-1-134 (2).

SECTION 19. In Colorado Revised Statutes, 8-83-503, **add** (7) as follows:

8-83-503. Just transition office - advisory committee - repeal. (7) THE OFFICE, IN CONSULTATION WITH THE ADVISORY COMMITTEE, SHALL DEVELOP A PROPOSED LONG-TERM BUDGET TO ADEQUATELY FINANCE THE JUST TRANSITION PLAN. THE OFFICE SHALL SUBMIT THE PROPOSED BUDGET TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT NO LATER THAN JULY 1, 2022. THE BUDGET MUST INCLUDE FINANCING OPTIONS FROM STATE, FEDERAL, AND OTHER SOURCES. THE DEPARTMENT SHALL CONSIDER THE PROPOSED BUDGET AS PART OF ITS BUDGET PROPOSAL FOR STATE FISCAL YEAR 2023-24.

SECTION 20. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 24-38.5-101 as follows:

24-38.5-101. Colorado energy office - creation. (1) THERE IS HEREBY CREATED WITHIN THE OFFICE OF THE GOVERNOR THE COLORADO ENERGY OFFICE, THE HEAD OF WHICH IS THE DIRECTOR OF THE COLORADO ENERGY OFFICE. THE DIRECTOR OF THE OFFICE SHALL BE ASSISTED BY A DEPUTY DIRECTOR AND A STAFF TO FULFILL THE OFFICE'S MISSION TO:

(a) SUPPORT COLORADO'S TRANSITION TO A MORE EQUITABLE, LOW-CARBON, AND CLEAN ENERGY ECONOMY AND PROMOTE RESOURCES THAT REDUCE AIR POLLUTION AND GREENHOUSE GAS EMISSIONS, INCLUDING POLLUTION AND EMISSIONS FROM ELECTRICITY GENERATION, BUILDINGS, INDUSTRY, AGRICULTURE, AND TRANSPORTATION;

(b) PROMOTE ECONOMIC DEVELOPMENT AND HIGH QUALITY JOBS IN COLORADO

THROUGH ADVANCING CLEAN ENERGY, TRANSPORTATION ELECTRIFICATION, AND OTHER TECHNOLOGIES THAT REDUCE AIR POLLUTION AND GREENHOUSE GAS EMISSIONS, INCLUDING HELPING TO FINANCE THOSE INVESTMENTS;

(c) PROMOTE ENERGY EFFICIENCY;

(d) PROMOTE AN EQUITABLE TRANSITION TOWARD ZERO EMISSION BUILDINGS;

(e) PROMOTE AN EQUITABLE TRANSITION TO TRANSPORTATION ELECTRIFICATION, ZERO EMISSION VEHICLES, TRANSPORTATION SYSTEMS, AND LAND USE PATTERNS THAT REDUCE ENERGY USE AND GREENHOUSE GAS EMISSIONS;

(f) INCREASE ENERGY SECURITY;

(g) SUPPORT LOWER LONG-TERM CONSUMER COSTS AND SUPPORT REDUCED ENERGY COST BURDEN FOR LOWER-INCOME COLORADANS; AND

(h) PROTECT THE ENVIRONMENT AND PUBLIC HEALTH.

SECTION 21. In Colorado Revised Statutes, 24-75-402, **add** (5)(tt) as follows:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(tt) THE COMMUNITY IMPACT CASH FUND CREATED IN SECTION 25-7-129 (1).

SECTION 22. In Colorado Revised Statutes, 40-2-129, **add** (4) as follows:

40-2-129. New resource acquisitions - factors in determination - local employment - "best value" metrics. (4) (a) THE STATE AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT OF THE COMMISSION'S IMPLEMENTATION OF THE "BEST VALUE" EMPLOYMENT METRICS REQUIREMENTS OF THIS SECTION, INCLUDING REVIEW OF:

(I) THE PROJECTS SUBJECT TO SUBSECTION (1)(a) OF THIS SECTION THAT HAVE BEEN APPROVED IN THE PREVIOUS TEN YEARS;

(II) WHETHER THE WORK DONE USED CONTRACTORS THAT MET THE CRITERIA SPECIFIED IN THIS SECTION;

(III) ANY SHORTFALLS IN ENFORCEMENT CAPACITY OR IMPLEMENTATION BY THE COMMISSION;

(IV) CURRENT ENFORCEMENT PROCEDURES FOR INVESTOR-OWNED UTILITIES, INDEPENDENT POWER PRODUCERS, AND WHOLESALE GENERATION AND TRANSMISSION ELECTRIC COOPERATIVES; AND

(V) WHETHER AND HOW DELAYED RULE-MAKING PROCEEDINGS HAVE PREVENTED THE "BEST VALUE" EMPLOYMENT METRICS REQUIREMENTS OF THIS SECTION FROM

BEING IMPLEMENTED.

(b) THE GOVERNOR'S OFFICE, THE COMMISSION, AND COMMISSION STAFF SHALL COOPERATE WITH STAKEHOLDERS AND THE STATE AUDITOR IN CONDUCTING THE AUDIT AND MAKING RECOMMENDATIONS FOR REFORMS OF, OR POTENTIAL ALTERNATIVES TO, THE IMPLEMENTATION AND ENFORCEMENT OF "BEST VALUE" EMPLOYMENT METRICS.

(c) UPON COMPLETION OF A PERFORMANCE AUDIT, THE STATE AUDITOR SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATIVE AUDIT COMMITTEE, TOGETHER WITH ANY FINDINGS AND RECOMMENDATIONS.

SECTION 23. Appropriation. (1) For the 2021-22 state fiscal year, \$2,550,218 is appropriated to the department of public health and environment. This appropriation consists of \$2,172,376 from the general fund and \$377,842 from the community impact cash fund created in section 25-7-129 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$1,417,544, which consists of \$1,070,172 from the general fund and \$347,372 from the community impact cash fund for use by the air pollution control division for personal services related to stationary sources, which amount is based on an assumption that the division will require an additional 20.4 FTE;

(b) \$510,353, which consists of \$479,882 from the general fund and \$30,470 from the community impact cash fund for use by the air pollution control division for operating costs related to stationary sources;

(c) \$382,680 from the general fund for the purchase of legal services; and

(d) \$239,642 from the general fund for the purchase of information technology services.

(2) For the 2021-22 state fiscal year, \$382,680 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 2.0 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

(3) For the 2021-22 state fiscal year, \$239,642 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(d) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of public health and environment.

(4) For the 2021-22 state fiscal year, \$146,703 is appropriated to the office of the governor for use by the Colorado energy office. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.8 FTE. To implement this act, the office may use this appropriation for program costs.

SECTION 24. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 25. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: July 2, 2021